

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS

ISIDRO RAMIREZ, III

Plaintiff,

vs.

PRECHECK, INC.

Defendant.

Civil Action No.

COMPLAINT

PRELIMINARY STATEMENT

1. This is an action for damages brought by an individual consumer against Defendant PreCheck, Inc. (hereafter “PreCheck”), for violations of the Fair Credit Reporting Act (hereafter the “FCRA”), 15 U.S.C. §§ 1681 *et seq., as amended.* Under the FCRA, “consumer reports” subject to the statute’s protections include not simply those used in establishing the consumer’s eligibility for credit, but also those used for “employment purposes.” 15 U.S.C. § 1681a(d)(1)(B).

2. Defendant PreCheck is a consumer reporting agency which provides background and employment screening services, and decision-making intelligence to prospective employers.

3. The FCRA was enacted “to insure that consumer reporting agencies exercise their grave responsibilities with fairness, impartiality, and a respect for the consumer’s right to privacy,” 15 U.S.C. § 1681(a)(4), by operating “in a manner which is fair and equitable to the consumer, with regard to the confidentiality, accuracy, relevancy” of the consumer information they disseminate. 15 U.S.C. § 1681(b). Congress included in the statutory scheme a series of protections that impose strict procedural rules on consumer reporting agencies such as Defendant

PreCheck. This action involves Defendant PreCheck's systematic violation of several of those important rules.

JURISDICTION AND VENUE

4. Jurisdiction of this Court arises under 15 U.S.C. § 1681p and 28 U.S.C. § 1331.
5. Venue lies properly in this district pursuant to 28 U.S.C. § 1391(b).

PARTIES

6. Plaintiff Isidro Ramirez is an adult individual who resides in the State of Texas.

7. Defendant PreCheck, Inc. ("PreCheck") is a business entity which provides background and employment screening services, risk-management services and products, information management products and services, and decisions-making intelligence. PreCheck has a principal place of business located at 2500 E T C Jester Blvd., Ste. 600A, Houston, TX, 77008.

FACTUAL ALLEGATIONS

8. In or around October 2020 and again in November 2020, Plaintiff applied for a position with Valley Baptist Medical Center ("Valley Baptist") through recruiting service, Tenet Healthcare.

9. As part of his job application, Plaintiff signed documents purportedly authorizing Tenet Healthcare to obtain a consumer report for employment purposes.

10. Tenet Healthcare requested a consumer report from PreCheck and PreCheck sold to Tenet Healthcare a consumer report concerning the Plaintiff in or around December 2020.

11. The reports furnished by PreCheck were for employment purposes.

12. The consumer reports contained at least two items of information which was a matter of public record and of the type of information that was likely to have an adverse effect upon Plaintiff's ability to obtain employment generally, and specifically with Valley Baptist.

13. Defendant PreCheck has been reporting, and did here report, derogatory and inaccurate statements and information relating to Plaintiff and Plaintiff's criminal history and record to third parties ("inaccurate information").

14. The inaccurate information includes, but is not limited to, two misdemeanor records for continuous violence against the family and violate bond/protective order assault/stalk, which were dismissed pursuant to a Court Order dated November 13, 2020.

15. The inaccurate information disparages the Plaintiff and portrays false criminal history about him.

16. In creating and furnishing the Plaintiff's consumer report, Defendant PreCheck failed to follow reasonable procedures to assure the maximum possible accuracy of the information it reported about the Plaintiff. Due to Defendant PreCheck's faulty procedures it inaccurately reported Plaintiff's criminal record.

17. Plaintiff was subsequently delayed starting employment at Valley Baptist and Plaintiff was informed by Tenet Healthcare that the basis for this delay was the inaccurate criminal information that appears on Plaintiff's PreCheck consumer report and that the inaccurate information was a substantial factor for the denial.

18. As a result of Defendant PreCheck's conduct, Plaintiff has suffered actual damages in the form of lost employment opportunity, harm to reputation, and emotional distress, including anxiety, frustration, humiliation and embarrassment.

19. At all times pertinent hereto, Defendant PreCheck was acting by and through its agents, servants and/or employees who were acting within the course and scope of its agency or employment, and under the direct supervision and control of the Defendant PreCheck herein.

20. At all times pertinent hereto, the conduct of the Defendant PreCheck as well as that of its agents, servants and/or employees, was intentional, willful, reckless, negligent, and in grossly negligent disregard for federal laws and the rights of the Plaintiff herein.

CAUSE OF ACTION

Fair Credit Reporting Act

21. Plaintiff incorporates the foregoing paragraphs as though the same were set forth at length herein.

22. At all times pertinent hereto, Defendant PreCheck was a “person” and a “consumer reporting agency” as those terms are defined by 15 U.S.C. §§ 1681a(b) and (f).

23. At all times pertinent hereto, the Plaintiff was a “consumer” as that term is defined by 15 U.S.C. § 1681a(c).

24. At all times pertinent hereto, the above-mentioned consumer reports were “consumer reports” as that term is defined by 15 U.S.C. § 1681a(d).

25. Pursuant to 15 U.S.C. § 1681n and 15 U.S.C. § 1681o, Defendant PreCheck is liable to the Plaintiff for willfully and negligently failing to comply with the requirements imposed on a consumer reporting agency of information pursuant to 15 U.S.C. § 1681e(b).

26. The conduct of Defendant PreCheck was a direct and proximate cause, as well as a substantial factor, in bringing about the serious injuries, actual damages and harm to the Plaintiff outlined more fully above and, as a result, Defendant PreCheck is liable to the Plaintiff

for the full amount of statutory, actual and punitive damages, along with the attorney's fees and the costs of litigation, as well as such further relief, as may be permitted by law.

JURY TRIAL DEMAND

27. Plaintiff demands trial by jury on all issues so triable.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff seeks judgment in Plaintiff's favor and damages against Defendant PreCheck, for the following requested relief:

- a. Actual damages;
- b. Statutory damages;
- c. Punitive damages;
- d. Costs and reasonable attorney's fees; and
- e. Such other and further relief as may be necessary, just and proper.

Respectfully Submitted,

FRANCIS MAILMAN SOUMILAS, P.C.

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